

AMENDED IN SENATE AUGUST 24, 2012

AMENDED IN SENATE AUGUST 7, 2012

AMENDED IN SENATE JUNE 27, 2012

AMENDED IN ASSEMBLY APRIL 30, 2012

AMENDED IN ASSEMBLY APRIL 17, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 2363**

**Introduced by Assembly Member Chesbro**  
(Coauthors: Senators Evans and La Malfa)

February 24, 2012

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An act to amend Sections ~~8103~~, 8276.2, 8276.5, 8280.3, 8280.6, and 13103 of, and to add and repeal Section 9002.5 of, the Fish and Game Code, relating to commercial fishing, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2363, as amended, Chesbro. Commercial—~~Fishing~~ *fishing*: Dungeness crab.

(1) Existing law authorizes the Director of the Department of Fish and Game to authorize one or more operators of commercial fishing vessels to take and land a limited number of Dungeness crab for the purpose of quality testing, as provided. Existing law prohibits the department from approving a testing program unless it is funded by the entity authorized to conduct the testing program and prohibits the sale of the crab taken for testing. Those provisions become inoperative on April 1, 2019, and are repealed on January 1, 2020.

This bill would delete the above prohibitions, and, instead, would specifically authorize the sale of tested crab meat and the use of sale revenues for purposes of managing the testing program. The bill would require that the sale revenues be deposited in an account managed and overseen by the Pacific States Marine Fisheries Commission. The bill would require the department, in consultation with specified entities, to develop suggested guidelines for the management of the funds from the sale, among other guidelines.

(2) Existing law requires the director to adopt a program, as provided, for Dungeness crab trap limits for all California permits, that includes 7 tiers of Dungeness crab trap limits based on all California landings receipts under California permits, as specified. Existing law authorizes an individual to submit an appeal of a trap tag allocation by March 31, 2014, as provided. Existing law requires the individual requesting the appeal to pay all expenses, including a nonrefundable filing fee, as determined by the department, to pay for the department's reasonable costs associated with the appeal that is heard and decided by an administrative law judge. Those provisions become inoperative on April 1, 2019, and are repealed on January 1, 2020.

This bill would authorize ~~an individual~~ *any Dungeness crab permit holder* to apply to the administrative law judge for a waiver of these appeal fees. The bill would authorize the administrative law judge to consider certain factors when making this determination, including medical hardship. *This bill would require the department to decide an appeal to revise downward a trap tag allocation.*

~~(3) Existing law relating to limited entry fisheries requires the department to transfer a permit for a limited entry fishery, upon application, to a parent, spouse, child, or sibling of a permittee whose death was the result of an accident that occurred after January 1, 1986.~~

~~This bill would require the department to transfer a permit for a limited entry fishery, upon application, to a parent, spouse, child, sibling, domestic partner, or other natural person who is an heir of a permittee whose death occurred after January 1, 2010, without reference to the cause of death.~~

~~(4)~~

(3) Existing law regulating the Dungeness crab fishery permits the owner of a vessel to whom a Dungeness crab vessel permit has been issued, upon the written approval of the department, to temporarily transfer the permit to another replacement vessel for which use in the Dungeness crab fishery is not permitted, for a period of not more than

6 months during the current permit year, under specified circumstances. Existing law also permits the transfer of a permit to another vessel in the event of loss or destruction of a permitted vessel, within 2 years after the loss or damage of the original vessel.

This bill would require the owner of a vessel to whom a Dungeness crab vessel permit has been issued to have had *California Dungeness crab landings made with trap gear documented on department landing receipts and to have had California Dungeness crab landings* of not less than 5,000 pounds cumulative for the past 2-years *Dungeness crab seasons to translate the permit*. The bill also would require the replacement vessel to be equivalent in size and capacity, as specified, to the vessel from which the permit is transferred. *The bill would require specified proof of loss, theft, damage, mechanical breakdown, or destruction to be submitted for a vessel permit to be transferred. This bill would require a vessel owner to sign an application for transfer and certify that the information included is true to the best of his or her information and belief. By expanding the definition of the crime of perjury, this bill would impose a state-mandated local program.*

(5)

(4) Existing law regulating commercial fishing traps makes it unlawful, except as specified, to willfully or recklessly disturb, move, or damage any trap that belongs to another person and that is marked with a buoy identification number.

~~This bill would authorize a commercially permitted Dungeness crab vessel to retrieve and bring to shore Dungeness crab traps in ocean waters under specified circumstances. The bill would authorize the department, in consultation with Dungeness crab permit holders or their representatives, to establish the Dungeness Crab Task Force, to develop regulations as necessary to implement and enforce the trap retrieval provisions provide for the retrieval of lost or abandoned commercial crab traps. Those provisions would become inoperative on April 1, 2019, and would be repealed on January 1, 2020.~~

(6)

(5) Existing law authorizes expenditures from the fish and wildlife propagation fund of any county to be made for specified purposes, including for reasonable administrative costs, as provided. Existing law defines “reasonable cost” as an amount that does not exceed 3% of the average amount received by the fund during the previous 3-year period, or \$3,000 annually, whichever is greater, as provided.

This bill would instead define “reasonable cost” as an amount that does not exceed 15% of the average amount received by the fund during the previous 3-year period, or \$10,000 annually, whichever is greater.

(6) *Existing law requires the department to charge a specified fee for each Dungeness crab vessel permit and for certain transfers of permits for the reasonable regulatory costs of the department.*

*This bill would provide for these fees for each transfer of a permit.*

(7) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

(7)

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 8103 of the Fish and Game Code is~~  
 2     ~~amended to read:~~  
 3     ~~8103. (a) The Legislature finds and declares as follows:~~  
 4     ~~(1) The death of a limited entry permittee results in great~~  
 5     ~~hardships on the permittee’s family.~~  
 6     ~~(2) Under the law as it existed immediately prior to January 1,~~  
 7     ~~1987, if a member of the permittee’s family has not been actively~~  
 8     ~~working in the fishery, the limited entry permit could not be~~  
 9     ~~transferred to a member of the family, an action that deprives the~~  
 10    ~~family of the opportunity to continue to derive a livelihood from~~  
 11    ~~the fishery and that imposes greater hardships.~~  
 12    ~~(3) When there is a death of a limited entry permittee, a~~  
 13    ~~transition period is necessary to allow a family member to join the~~  
 14    ~~fishery and to become acclimated, knowledgeable, and experienced~~  
 15    ~~in the fishery.~~  
 16    ~~(b) Notwithstanding Section 8102, the department shall transfer~~  
 17    ~~a permit for a limited entry fishery, upon application, to a parent,~~  
 18    ~~spouse, child, sibling, domestic partner, or other natural person~~

1 who is an heir of a permittee whose death occurred after January  
2 1, 2010.

3 ~~(e) Application for the transfer of a permit pursuant to~~  
4 ~~subdivision (b) shall be made on or before July 1, 2013, or not~~  
5 ~~more than one year after the death of the permittee, whichever is~~  
6 ~~later.~~

7 ~~(d) The director may authorize another person, when requested~~  
8 ~~by the new permittee, to serve in the place of the new permittee~~  
9 ~~and to engage in fishing activities under the authority of the limited~~  
10 ~~entry permit for not more than two years from the date of the permit~~  
11 ~~transfer.~~

12 ~~SEC. 2.~~

13 *SECTION 1.* Section 8276.2 of the Fish and Game Code is  
14 amended to read:

15 8276.2. (a) The director may order a delay in the opening of  
16 the Dungeness crab fishery after December 1 in Districts 6, 7, 8,  
17 and 9 in any year. The delay in the opening shall not be later than  
18 January 15 of any year.

19 (b) (1) On or about November 1 of each year, the director may  
20 authorize one or more operators of commercial fishing vessels to  
21 take and land a limited number of Dungeness crab for the purpose  
22 of quality testing according to a testing program conducted by, or  
23 on behalf of, the Pacific States Marine Fisheries Commission or  
24 an entity approved by the department.

25 (2) (A) The meat extracted from Dungeness crab tested pursuant  
26 to paragraph (1) may be sold by the entity approved by the  
27 department and revenues from that sale may be used for purposes  
28 of managing the testing program. Revenues shall be deposited in  
29 an account managed and overseen by the Pacific States Marine  
30 Fisheries Commission.

31 (B) For purposes of the testing program, the department shall  
32 develop guidelines after consulting with representatives of the  
33 California Dungeness crab industry, which shall include California  
34 delegates to the Tri-State Dungeness Crab Commission or members  
35 of the California Dungeness Crab Task Force, or both. The  
36 guidelines shall include the following:

37 (i) Suggested guidelines for the management of the funds  
38 received from, but not limited to, the sale of the crab meat pursuant  
39 to subparagraph (A), including the suggested guideline that funds

1 in excess of the program costs may be donated for charitable  
2 purposes.

3 (ii) Guidelines for the testing program.

4 (iii) Guidelines that establish measures to track crab caught for  
5 purposes of the testing program, including, but not limited to, the  
6 guideline that all crab caught and sold for the testing program shall  
7 be canned.

8 (c) The director shall order the opening of the Dungeness crab  
9 season in Districts 6, 7, 8, and 9 on December 1 if the quality tests  
10 authorized in subdivision (b) indicate the Dungeness crabs are not  
11 soft-shelled or low quality. The entity authorized to conduct the  
12 approved testing program may test, or cause to be tested, crabs  
13 taken for quality and soft shells pursuant to the approved testing  
14 program. If the tests are conducted on or about November 1 and  
15 result in a finding that Dungeness crabs are soft-shelled or low  
16 quality, the director shall authorize a second test to be conducted  
17 on or about November 15 pursuant to the approved testing program.  
18 If the second test results in a finding that Dungeness crabs are  
19 soft-shelled or low quality, the director may order the season  
20 opening delayed for a period of 15 days and may authorize a third  
21 test to be conducted on or about December 1. If the third test results  
22 in a finding that Dungeness crabs remain soft-shelled or of low  
23 quality, the director may order the season opening delayed for a  
24 period of an additional 15 days and authorize a fourth test to be  
25 conducted. This procedure may continue to be followed, except  
26 that tests shall not be conducted after January 1 for that season,  
27 and the season opening shall not be delayed by the director later  
28 than January 15.

29 (d) This section shall become inoperative on April 1, 2019, and,  
30 as of January 1, 2020, is repealed, unless a later enacted statute,  
31 that becomes operative on or before January 1, 2020, deletes or  
32 extends the dates on which it becomes inoperative and is repealed.

33 ~~SEC. 3.~~

34 *SEC. 2.* Section 8276.5 of the Fish and Game Code is amended  
35 to read:

36 8276.5. (a) In consultation with the Dungeness crab task force,  
37 or its appointed representatives, the director shall adopt a program,  
38 by March 31, 2013, for Dungeness crab trap limits for all California  
39 permits. Unless the director finds that there is consensus in the  
40 Dungeness crab industry that modifications to the following

1 requirements are more desirable, with evidence of consensus,  
2 including, but not limited to, the record of the Dungeness crab task  
3 force, the program shall include all of the following requirements:

4 (1) The program shall contain seven tiers of Dungeness crab  
5 trap limits based on California landings receipts under California  
6 permits between November 15, 2003, and July 15, 2008, as follows:

7 (A) The 55 California permits with the highest California  
8 landings shall receive a maximum allocation of 500 trap tags.

9 (B) The 55 California permits with the next highest California  
10 landings to those in subparagraph (A) shall receive a maximum  
11 allocation of 450 trap tags.

12 (C) The 55 California permits with the next highest California  
13 landings to those in subparagraph (B) shall receive a maximum  
14 allocation of 400 trap tags.

15 (D) The 55 California permits with the next highest California  
16 landings to those in subparagraph (C) shall receive a maximum  
17 allocation of 350 trap tags.

18 (E) The 55 California permits with the next highest California  
19 landings to those in subparagraph (D) shall receive a maximum  
20 allocation of 300 trap tags.

21 (F) The remaining California permits with the next highest  
22 California landings to those in subparagraph (E), which are not  
23 described in paragraph (1) or (2) of subdivision (g) of Section  
24 8276.4, shall receive a maximum allocation of 250 trap tags.

25 (G) The California permits described in paragraphs (1) and (2)  
26 of subdivision (g) of Section 8276.4 shall receive a maximum  
27 allocation of 175 tags. The tags in this tier shall not be transferable  
28 for the first two years of the program.

29 (2) Notwithstanding paragraph (1), the director shall not remove  
30 a permitholder from a tier described in paragraph (1), if, after an  
31 allocation is made pursuant to paragraph (1), an appeal pursuant  
32 to paragraph (6) places a permitholder in a tier different than the  
33 original allocation.

34 (3) Participants in the program shall meet all of the following  
35 requirements:

36 (A) Pay a biennial fee for each trap tag issued pursuant to this  
37 section to pay the pro rata share of costs of the program, including,  
38 but not limited to, informing permitholders of the program,  
39 collecting fees, acquiring and sending trap tags to permitholders,  
40 paying for a portion of enforcement costs, and monitoring the

1 results of the program. The fee shall not exceed five dollars (\$5)  
2 per trap, per two-year period. All of the trap tags allocated to each  
3 permit pursuant to subdivision (a) shall be purchased by the  
4 permit holder or the permit shall be void.

5 (B) Purchase a biennial crab trap limit permit of not more than  
6 one thousand dollars (\$1,000) per two-year period to pay for the  
7 department's reasonable regulatory costs.

8 (C) Not lease a crab trap tag, and transfer a tag only as part of  
9 a transaction to purchase a California permitted crab vessel.

10 (D) A Dungeness crab trap that is fished shall contain a trap tag  
11 that is fastened to the main buoy, and an additional tag provided  
12 by the permit holder attached to the trap. The department shall  
13 mandate the information that is required to appear on both buoy  
14 and trap tags.

15 (4) The department shall annually provide an accounting of all  
16 costs associated with the crab trap limit program. The department  
17 shall use excess funds collected to reduce the cost of the crab trap  
18 limit permit fee or tag fee in subsequent years of the program.

19 (5) Permit holders may replace lost tags by application to the  
20 department and payment of a fee not to exceed the reasonable costs  
21 incurred by the department. The department may waive or reduce  
22 a fee in the case of catastrophic loss of tags.

23 (6) (A) ~~An individual~~ Any Dungeness crab permit holder may  
24 submit to the director an appeal of a trap tag allocation received  
25 pursuant to this section, by March 31, 2014, on a permit-by-permit  
26 basis for the purpose of revising upward or downward any trap  
27 tag allocation. Any appeal to revise upward a trap tag allocation  
28 shall be based on evidence that a permit's California landings  
29 during the period between November 15, 2003, and July 15, 2008,  
30 inclusive, were reduced as a result of unusual circumstances and  
31 that these circumstances constitute an unfair hardship, taking into  
32 account the overall California landings history as indicated by  
33 landing receipts associated with the permit. The director shall  
34 initiate the appeal process within 12 months of receiving an appeal  
35 request. The appeal shall be heard and decided by an administrative  
36 law judge of the Office of Administrative Hearings, whose decision  
37 shall constitute the final administrative decision. Except as  
38 provided in subparagraph (B), ~~an individual~~ any Dungeness crab  
39 permit holder requesting an appeal to revise upward the  
40 permit holder's trap tag allocation shall pay all expenses, including



1 a nonrefundable filing fee, as determined by the department, to  
2 pay for the department's reasonable costs associated with the appeal  
3 process described in this paragraph.

4 (B) ~~An individual~~ Any *Dungeness crab permitholder* requesting  
5 an appeal may apply to the administrative law judge for a waiver  
6 of the appeal fees. In making the determination, the administrative  
7 law judge may *only* consider medical hardship, ~~military service,~~  
8 ~~or where the appeal is for a permanent revision to a lower tier or~~  
9 ~~military service occurring during the tier qualifying window period~~  
10 ~~of November 15, 2003, through July 15, 2008.~~

11 (C) *An appeal to revise downward a trap tag allocation shall*  
12 *be decided by the department.*

13 (b) (1) In addition to criminal penalties authorized by law, a  
14 violation of the requirements of the program created pursuant to  
15 this section shall be subject to the following civil penalties:

16 (A) Conviction of a first offense shall result in a fine of not less  
17 than two hundred fifty dollars (\$250) and not more than one  
18 thousand dollars (\$1,000) per illegal trap or fraudulent tag.

19 (B) Conviction of a second offense shall result in a fine of not  
20 less than five hundred dollars (\$500) and not more than two  
21 thousand five hundred dollars (\$2,500) per illegal trap or fraudulent  
22 tag, and the permit may be suspended for one year.

23 (C) Conviction of a third offense shall result in a fine of not less  
24 than one thousand dollars (\$1,000) and not more than five thousand  
25 dollars (\$5,000) per illegal trap or fraudulent tag, and the permit  
26 may be permanently revoked.

27 (2) The severity of a penalty within the ranges described in this  
28 subdivision shall be based on a determination whether the violation  
29 was willful or negligent and other factors.

30 (3) The portion of monetary judgments for noncompliance that  
31 are paid to the department shall be deposited in the Dungeness  
32 Crab Account created pursuant to subdivision (e).

33 (c) For the purposes of this section, a proposed recommendation  
34 that receives an affirmative vote of at least 15 of the non-ex officio  
35 members of the Dungeness crab task force may be transmitted to  
36 the director or the Legislature as a recommendation, shall be  
37 considered to be the consensus of the task force, and shall be  
38 considered to be evidence of consensus in the Dungeness crab  
39 industry. Any proposed recommendation that does not receive a  
40 vote sufficient to authorize transmittal to the director or Legislature

1 as a recommendation shall be evidence of a lack of consensus by  
2 the Dungeness crab task force, and shall be considered to be  
3 evidence of a lack of consensus in the crab industry.

4 (d) (1) The director shall submit a proposed program pursuant  
5 to this section to the Dungeness crab task force for review, and  
6 shall not implement the program until the task force has had 60  
7 days or more to review the proposed program and recommend any  
8 proposed changes. The director may implement the program earlier  
9 than 60 days after it is submitted to the Dungeness crab task force  
10 for review, if recommended by the task force.

11 (2) After the program is implemented pursuant to paragraph  
12 (1), the director may modify the program, if consistent with the  
13 requirements of this section, after consultation with the Dungeness  
14 crab task force or its representatives and after the task force has  
15 had 60 days or more to review the proposed modifications and  
16 recommend any proposed changes. The director may implement  
17 the modifications earlier than 60 days after it is sent to the  
18 Dungeness crab task force for review, if recommended by the task  
19 force.

20 (e) The Dungeness Crab Account is hereby established in the  
21 Fish and Game Preservation Fund and the fees collected pursuant  
22 to this section shall be deposited in that account. The money in  
23 the account shall be used by the department, upon appropriation  
24 by the Legislature, for administering and enforcing the program.

25 (f) For purposes of meeting the necessary expenses of initial  
26 organization and operation of the program until fees may be  
27 collected, or other funding sources may be received, the department  
28 may borrow money as needed for these expenses from the council.  
29 The borrowed money shall be repaid within one year from the fees  
30 collected or other funding sources received. The council shall give  
31 high priority to providing funds or services to the department, in  
32 addition to loans, to assist in the development of the program,  
33 including, but not limited to, the costs of convening the Dungeness  
34 crab task force, environmental review, and the department's costs  
35 of attending meetings with task force members.

36 (g) (1) It is the intent of the Legislature that the department,  
37 the council, and the Dungeness crab task force work with the  
38 Pacific States Marine Fisheries Commission and the Tri-state  
39 Dungeness Crab Commission to resolve any issues pertaining to

1 moving the fair start line south to the border of California and  
2 Mexico.

3 (2) For the purposes of this subdivision, the resolution of issues  
4 pertaining to the fair start line shall be limited to assessing the  
5 positive and negative implications of including District 10 in the  
6 tri-state agreement, including working with the Tri-state Dungeness  
7 Crab Commission to amend Oregon and Washington laws to  
8 include District 10 in the regular season fair start clause, and  
9 discussion of providing different rules for District 10 with regard  
10 to preseason quality testing.

11 (h) For purposes of this section, “council” means the Ocean  
12 Protection Council established pursuant to Section 35600 of the  
13 Public Resources Code.

14 (i) This section shall become inoperative on April 1, 2019, and,  
15 as of January 1, 2020, is repealed, unless a later enacted statute,  
16 that becomes operative on or before January 1, 2020, deletes or  
17 extends the dates on which it becomes inoperative and is repealed.

18 ~~SEC. 4.~~

19 *SEC. 3.* Section 8280.3 of the Fish and Game Code is amended  
20 to read:

21 8280.3. (a) Notwithstanding Article 9 (commencing with  
22 Section 8100) of Chapter 1 and except as provided in this section,  
23 a Dungeness crab vessel permit shall not be transferred.

24 (b) The owner of a vessel to whom a Dungeness crab vessel  
25 permit has been issued shall transfer the permit for the use of that  
26 vessel upon the sale of the vessel by the permitholder to the person  
27 purchasing the vessel. Thereafter, upon notice to the department,  
28 the person purchasing the vessel may use the vessel for the taking  
29 and landing of Dungeness crab for any and all of the unexpired  
30 portion of the permit year, and that person is eligible for a permit  
31 pursuant to Section 8280.1 for the use of that vessel in subsequent  
32 years. The person purchasing the vessel shall not transfer the permit  
33 for use of that vessel in the Dungeness crab fishery to another  
34 replacement vessel during the same permit year.

35 (c) The owner of a vessel to whom the Dungeness crab vessel  
36 permit has been issued may transfer the permit to a replacement  
37 vessel of equivalent capacity, except as specified in this section.  
38 Thereafter, upon notice to the department and payment of the  
39 transfer fee specified in Section 8280.6, the replacement vessel  
40 may be used for the taking and landing of Dungeness crab for any

1 and all of the unexpired portion of the permit year and that person  
2 is eligible for a permit pursuant to Section 8280.1 for the use of  
3 that replacement vessel in subsequent years.

4 (d) The owner of a permitted vessel may transfer the permit to  
5 a vessel of greater capacity that was owned by that person on or  
6 before November 15, 1995, not to exceed 10 feet longer in length  
7 overall than the vessel for which the permit was originally issued  
8 or to a vessel of greater capacity purchased after November 15,  
9 1995, not to exceed 5 feet longer in length overall than the vessel  
10 for which the permit was originally issued.

11 (e) The department, ~~upon recommendation of the Dungeness~~  
12 ~~crab review panel,~~ may authorize the owner of a permitted vessel  
13 to transfer the permit to a replacement vessel that was owned by  
14 that person on or before April 1, 1996, that does not fish with trawl  
15 nets that is greater than five feet longer in length overall than the  
16 vessel for which the permit was originally issued, if all of the  
17 following conditions are satisfied:

18 (1) A vessel of a larger size is essential to the owner for  
19 participation in another fishery other than a trawl net fishery.

20 (2) The owner held a permit on or before January 1, 1995, for  
21 the fishery for which a larger vessel is needed and has participated  
22 in that fishery.

23 (3) The permit for the vessel from which the permit is to be  
24 transferred qualified pursuant to paragraph (1) of subdivision (b)  
25 of Section 8280.1.

26 (4) The vessel to which the permit is to be transferred does not  
27 exceed 20 feet longer in length overall than the vessel for which  
28 the permit was originally issued and the vessel to which the permit  
29 is to be transferred does not exceed 60 feet in overall length.

30 (f) A transfer of a permit to a larger vessel shall not be allowed  
31 more than one time. If a permit is transferred to a larger vessel,  
32 any Dungeness crab vessel permit for that permit year or any  
33 subsequent permit years for that larger vessel shall not be  
34 transferred to another larger vessel. The department shall not  
35 thereafter issue a Dungeness crab vessel permit for the use of the  
36 original vessel from which the permit was transferred, except that  
37 the original vessel may be used to take or land Dungeness crab  
38 after that transfer if its use is authorized pursuant to another  
39 Dungeness crab vessel permit subsequently transferred to that  
40 vessel pursuant to this paragraph.

(g) (1) Upon the written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued, which has ~~had California Dungeness crab landings of made with trap gear documented on department landing receipts and which has had California Dungeness crab landings amounting to~~ not less than 5,000 pounds cumulative for the past two ~~years~~ Dungeness crab seasons, may temporarily transfer the permit to ~~another~~ a replacement vessel for which use in the Dungeness crab fishery is not permitted pursuant to this section or Section 8280.1 that is of equivalent size and capacity of the originally permitted vessel, no greater than 10 feet longer in length; overall than the vessel from which the permit is transferred, ~~for which use in the Dungeness crab fishery is not permitted pursuant to this section or Section 8280.1~~; for a period of not more than six months during the current permit year if the vessel for which the permit was issued is seriously damaged, suffers major mechanical breakdown, or is lost or destroyed, as determined by the department, upon approval of the director. The owner of the vessel shall submit proof that the department may reasonably require to establish the existence of the conditions of this paragraph. *Only the permittee at the time of the loss, theft, damage, breakdown, or destruction of the vessel may apply for the transfer of the vessel permit. Proof of loss or destruction shall be documented by submission of a copy of the report filed with the United States Coast Guard or any other law enforcement or fire agency that investigated the loss. In the case of mechanical breakdown, the request shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard. The department shall not issue a permit for a replacement vessel pursuant to this subdivision if the permitted vessel was reported lost, stolen, mechanically broken down, destroyed, or damaged for fraudulent purposes.* Upon approval by the director, the owner of a ~~lost or destroyed~~ vessel granted a six-month temporary transfer under this section may be granted an additional six-month extension of the temporary transfer.

(2) Notwithstanding subdivision (e) of Section 8280.2, in the event of loss or destruction of a vessel for which a Dungeness crab vessel permit was issued, or serious damage that renders the vessel inoperable, and upon written approval of the department, the owner of the vessel to whom the permit was issued may retain the permit and may transfer the permit to another vessel of equivalent size

1 and capacity of the vessel that was lost or damaged during the  
2 period of two years after the loss or damage of the vessel for which  
3 the permit was originally issued. The owner of the lost or damaged  
4 vessel shall submit proof that the department may reasonably  
5 require to establish the loss or damage of the vessel. *Only the*  
6 *permittee at the time of the loss, theft, damage, or destruction of*  
7 *the vessel may apply for the transfer of the vessel permit. Proof of*  
8 *loss or destruction shall be documented by submission of a copy*  
9 *of the report filed with the United States Coast Guard or any other*  
10 *law enforcement or fire agency that investigated the loss. In the*  
11 *case of mechanical breakdown, the request shall include an*  
12 *estimate of the costs to repair the vessel from a marine surveyor*  
13 *or boat repair yard. The department shall not issue a permit for*  
14 *a replacement vessel pursuant to this paragraph if the lost or*  
15 *damaged vessel was reported lost, stolen, destroyed, mechanically*  
16 *broken down, or damaged for fraudulent purposes. The department*  
17 *shall only transfer a permit pursuant to this paragraph if the lost*  
18 *or damaged vessel has a current permit and the owner of the lost*  
19 *or damaged vessel makes assurances in the application that any*  
20 *renewal of the permit that becomes due during the application*  
21 *processing period will be made. If the permit is not permanently*  
22 *transferred to another vessel owned by the person to whom the*  
23 *vessel permit was originally issued within two years of the loss or*  
24 *damage, the permit shall be revoked become void by operation of*  
25 *law.*

26 (h) Upon written approval of the department, the owner of a  
27 vessel to whom the Dungeness crab vessel permit has been issued  
28 may retain that permit upon the sale of that permitted vessel for  
29 the purpose of transferring the permit to another vessel to be  
30 purchased by that individual within one year of the time of sale of  
31 the vessel for which the permit was originally issued if the  
32 requirements of this section are satisfied, including the payment  
33 of transfer fees. If the permit is not transferred to a new vessel  
34 owned by the person to whom the vessel permit was originally  
35 issued within one year of the sale of the vessel for which it was  
36 originally issued, or if the person does not retain ownership of the  
37 new vessel to which the permit is transferred for a period of not  
38 less than one year, the permit shall ~~be revoked~~ *become void by*  
39 *operation of law.*

(i) In the event of the death or incapacity of a permitholder, the permit shall be transferred, upon application, to the heirs or assigns, or to the working partner, of the permitholder, together with the transfer of the vessel for which the permit was issued, and the new owner may continue to operate the vessel under the permit, renew the permit, or transfer the permit upon sale of the vessel pursuant to subdivision (b). *The estate of the holder of a transferable Dungeness crab vessel permit may renew that permit as provided for in statute if needed to keep it valid. The estate of the decedent may transfer that permit pursuant to these regulations no later than two years from the date of death of the permitholder as listed on the death certificate.*

(j) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. *Section 8280.6 of the Fish and Game Code is amended to read:*

8280.6. (a) The department shall charge a fee for each Dungeness crab vessel permit of two hundred dollars (\$200) for a resident of California and four hundred dollars (\$400) for a nonresident of California, for the reasonable regulatory costs of the department.

(b) The department shall charge a nonrefundable fee of two hundred dollars (\$200) for each transfer of a permit authorized pursuant to ~~subdivision (c), (h), or (i)~~ of Section 8280.3, for the reasonable regulatory costs of the department.

(c) *A vessel owner shall sign an application for transfer and certify that the information included in the application is true to the best of his or her information and belief.*

~~(e)~~

(d) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 9002.5 is added to the Fish and Game Code, to read:

9002.5. (a) Notwithstanding Section 9002, ~~a vessel, for which a Dungeness crab vessel permit has been issued, may retrieve and bring to shore a Dungeness crab trap belonging to a person, where~~

1 a trap was lost, abandoned, or is otherwise present in ocean waters  
2 within Districts 6, 7, 8, 9, and 10 between July 16 and October 31,  
3 inclusive. This section does not apply to a trap used for recreational  
4 crab fishing the department, in consultation with the Dungeness  
5 Crab Task Force, shall develop regulations as necessary to provide  
6 for the retrieval of lost or abandoned commercial crab traps.

7 ~~(b) The department, in consultation with Dungeness crab~~  
8 ~~permitholders or their representatives, shall establish regulations~~  
9 ~~as necessary to implement and enforce this section, including~~  
10 ~~provisions for the notification of owners of traps retrieved~~  
11 ~~following the close of the Dungeness crab fishery each year, any~~  
12 ~~retrieval fee, and the sale or auction of retrieved traps.~~

13 (e)

14 (b) This section shall become inoperative on April 1, 2019, and,  
15 as of January 1, 2020, is repealed, unless a later enacted statute,  
16 that becomes operative on or before January 1, 2020, deletes or  
17 extends the dates on which it becomes inoperative and is repealed.

18 SEC. 6. Section 13103 of the Fish and Game Code is amended  
19 to read:

20 13103. Expenditures from the fish and wildlife propagation  
21 fund of any county may be made only for the following purposes:

22 (a) Public education relating to the scientific principles of fish  
23 and wildlife conservation, consisting of supervised formal  
24 instruction carried out pursuant to a planned curriculum and aids  
25 to education such as literature, audio and video recordings, training  
26 models, and nature study facilities.

27 (b) Temporary emergency treatment and care of injured or  
28 orphaned wildlife.

29 (c) Temporary treatment and care of wildlife confiscated by the  
30 department as evidence.

31 (d) Breeding, raising, purchasing, or releasing fish or wildlife  
32 which are to be released upon approval of the department pursuant  
33 to Sections 6400 and 6401 onto land or into waters of local, state,  
34 or federal agencies or onto land or into waters open to the public.

35 (e) Improvement of fish and wildlife habitat, including, but not  
36 limited to, construction of fish screens, weirs, and ladders; drainage  
37 or other watershed improvements; gravel and rock removal or  
38 placement; construction of irrigation and water distribution  
39 systems; earthwork and grading; fencing; planting trees and other



1 vegetation management; and removal of barriers to the migration  
2 of fish and wildlife.

3 (f) Construction, maintenance, and operation of public hatchery  
4 facilities.

5 (g) Purchase and maintain materials, supplies, or equipment for  
6 either the department's ownership and use or the department's use  
7 in the normal performance of the department's responsibilities.

8 (h) Predator control actions for the benefit of fish or wildlife  
9 following certification in writing by the department that the  
10 proposed actions will significantly benefit a particular wildlife  
11 species.

12 (i) Scientific fish and wildlife research conducted by institutions  
13 of higher learning, qualified researchers, or governmental agencies,  
14 if approved by the department.

15 (j) Reasonable administrative costs, excluding the costs of audits  
16 required by Section 13104, for secretarial service, travel, and  
17 postage by the county fish and wildlife commission when  
18 authorized by the county board of supervisors. For purposes of  
19 this subdivision, "reasonable cost" means an amount which does  
20 not exceed 15 percent of the average amount received by the fund  
21 during the previous three-year period, or ten thousand dollars  
22 (\$10,000) annually, whichever is greater, excluding any funds  
23 carried over from a previous fiscal year.

24 (k) Contributions to a secret witness program for the purpose  
25 of facilitating enforcement of this code and regulations adopted  
26 pursuant to this code.

27 (l) Costs incurred by the district attorney or city attorney in  
28 investigating and prosecuting civil and criminal actions for  
29 violations of this code, as approved by the department.

30 (m) Other expenditures, approved by the department, for the  
31 purpose of protecting, conserving, propagating, and preserving  
32 fish and wildlife.

33 *SEC. 7. No reimbursement is required by this act pursuant to*  
34 *Section 6 of Article XIII B of the California Constitution because*  
35 *the only costs that may be incurred by a local agency or school*  
36 *district will be incurred because this act creates a new crime or*  
37 *infraction, eliminates a crime or infraction, or changes the penalty*  
38 *for a crime or infraction, within the meaning of Section 17556 of*  
39 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*  
2 *Constitution.*

3 ~~SEC. 7.~~

4 SEC. 8. This act is an urgency statute necessary for the  
5 immediate preservation of the public peace, health, or safety within  
6 the meaning of Article IV of the Constitution and shall go into  
7 immediate effect. The facts constituting the necessity are:

8 Improved ability for Dungeness crab quality testing should  
9 commence prior to the 2012–13 crab season which may begin  
10 November 15, 2012. This improved testing will provide the  
11 Director of the Department of Fish and Game vital information  
12 that was lacking during the 2011–12 crab season. Without this  
13 improved testing, the crab season could be prematurely opened or  
14 unnecessarily closed.